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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,937	01/24/2002	Webb Nelson	PV-12	9037

7590 12/19/2003

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EXAMINER
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WARD, JOHN A

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/053,937	Applicant(s) NELSON ET AL.	
	Examiner John A. Ward	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
     a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Allowable Subject Matter***

The indicated allowability of claims 8-17 is withdrawn in view of the newly discovered reference(s) to Nelson et al. (US 6,575,585). Rejections based on the newly cited reference(s) follow.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,575,585 in view of Bauer (US 6,367,942).

Regarding claims 1-7 of the instant applications, Nelson et al discloses all the limitations of the claimed invention as cited in claims 1-9 including a segment of material having a central area and salient point that include a plurality of vanes that are radially from a central area, and a axial pin extending through the common area wherein the

plurality of vanes come with at least light source mounted on the axel pin and a plurality of light emitting diodes attached to each vane.

Regarding claims 1-7, Nelson et al does not disclose at least one chemical luminescent assembly attached to each vane.

Regarding claims 1-7, Bauer ('942) discloses a rotating chemiluminescent fan blade light display comprising of a plurality of fan blades 3 having attached to each one of the blade at least one chemiluminescent lamp 4.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the illuminated vanes of Nelson with the chemiluminescent stick of Bauer in order to provide a light show with rotating blades using no electrical energy.

Claims 8-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,575,585 in view of Bauer (US 6,367,942).

Regarding claims 8-17 of the instant applications, Nelson et al discloses all the limitations of the claimed invention as cited in claims 1-9 including a segment of material having a central area and salient point that include a plurality of vanes that are radially from a central area, and a axial pin extending through the common area wherein the plurality of vanes come with at least light source mounted on the axel pin and a plurality of light emitting diodes attached to each vane.

Regarding claims 8-17, Nelson et al does not disclose at least one chemical luminescent assembly attached to each vane.

Regarding claims 8-17, Bauer ('942) discloses a rotating chemiluminescent fan blade light display comprising of a plurality of fan blades 3 having attached to each one of the blade at least one chemiluminescent lamp 4 by some type of mounting means 2 that can be attached to the blade (column 4, 37-58).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the illuminated vanes of Nelson with the chemiluminescent stick of Bauer in order to provide a light show with rotating blades using no electrical energy.

Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 13-18 of U.S. Patent No. 6,575,585 in view of Bauer (US 6,367,942).

Regarding claims 18 of the instant application, Nelson et al discloses all the limitations of the claimed invention as cited in claims 13-18 including a segment of material having a central area and salient point that include a plurality of vanes that are radially from a central area, and a axial pin extending through the common area wherein the plurality of vanes come with at least light source mounted on the axel pin and a plurality of light emitting diodes attached to each vane.

Regarding claim 18, Nelson et al does not disclose at least one chemical luminescent assembly attached to each vane.

Regarding claims 18, Bauer ('942) discloses a rotating chemiluminescent fan blade light display comprising of a plurality of fan blades 3 having attached to each one of the blade at least one chemiluminescent lamp 4 by some type of mounting means 2 that can be attached to the blade (column 4, 37-58).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the illuminated vanes of Nelson with the chemiluminescent stick of Bauer in order to provide a light show with rotating blades using no electrical energy.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (US 6036331) Discloses a ceiling fan 14 plurality of rotating blades 28 having illumination means 42 located on each blade.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Ward whose telephone number is 703-305-5157. The examiner can normally be reached on Monday - Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0596.

JAW  
December 3, 2003

John A. Ward  
Patent Examiner AU 2875



Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800